HON'BLE SMT. JUSTICE T.MEENA KUMARI

AND

HON'BLE SRI JUSTICE P.LAKSHMANA REDDY

WRIT APPEAL No.1021 of 2000

08-08-2005

Between:

APSRTC rep. by its Regional Manager,

Rajahmundry Depot, East Godavari.

..Appellant

And

K.Ganga Rao, S/o Appanna,

Aged about 50 years, Ex-Driver,

R/o Uppada, Kothapalli,

West Godavari district and another.

.. Respondents

HON'BLE SMT. JUSTICE T.MEENA KUMARI

AND

HON'BLE SRI JUSTICE P.LAKSHMANA REDDY

WRIT APPEAL No.1021 of 2000

JUDGMENT: (Per Hon'ble Smt. Justice T.Meena Kumari)

The Andhra Pradesh State Road Transport Corporation filed the appeal against the order of learned single Judge in W.P.No.14852 of 1997 dated 05-10-1999 directing the Corporation to consider the case of writ petitioner for appointment in any suitable post in the vacancies reserved for physically handicapped persons.

The respondent workman while working as driver with the Corporation had caused an accident in drunken condition and the same was proved in the enquiry resulting in removal from service. The workman raised I.D. before the Labour Court, which agreed with the said punishment. Subsequently, the workman met with an accident and lost one of his legs and the Labour Court directed the Corporation to consider his case in any post reserved for physically handicapped persons, which was not complied and in fact, the petitioner's claim for alternative appointment was rejected. Hence, the workman preferred writ petition. The learned single Judge has disposed of the writ petition with the direction as stated above.

Heard learned standing counsel for the appellant – Corporation and learned counsel for the workman.

Learned standing counsel for the appellant contended that the Labour Court cannot grant direction to consider the case of the workman for appointment in any lower post meant for physically handicapped persons particularly when he is found guilty of the misconduct. On the other hand, learned counsel for the workman supported the order of the learned single Judge.

Admittedly, the respondent workman is found guilty of the misconduct of drunken driving and causing accident and the punishment of removal from service was upheld by the Labour Court. It is not in dispute that the workman had met with another accident and lost one of his legs after removal from service. If that is so, the Labour Court as well as learned single Judge ought not to have taken into consideration the subsequent event that the workman is involved in the accident and lost his leg and given direction to consider the case of workman for appointment in any suitable lower post meant for physically handicapped person. When the workman is found guilty of the charged misconduct, the Labour Court ought to have dealt with the dispute accordingly. Instead, the Labour Court as well as the learned single Judge have gone beyond the scope of the I.D. and the writ petition and directed to consider the case of the workman under physically handicapped category. Thus, the subsequent event has been relied upon to grant the relief sought by filing a memo during the pendency of I.D. In these circumstances, we set aside the finding that the workman is entitled to be considered for appointment in any lower post meant for physically handicapped persons.

The writ appeal is accordingly allowed. No order as to costs.

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SMT. T. MEENA KUMARI, J.

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P.LAKSHMANA REDDY, J

08-08-2005

bsc